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June 15, 2010

VIA ECF

Hon. Steven M. Gold, USMJ
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Kozik, et al. v. Whitestone Construction
Corp., et al.
Docket No.: 07-cv-4095 (FB) (SMG)

Dear Judge Gold:

I am writing in response to plaintiffs' attorney's request that the Court enter an Order compelling the individual defendants, Boris Grzic and Steven Grzic appear at the settlement conference on June 17, 2010.

Counsel's letter is filled with a rather (a) scandalous allegation with respect to the circumstances surrounding the incident in which Boris Grzic was shot and (b) sexist comments concerning Christine Persico (formerly Grzic), who is a Vice President and stockholder of the defendant Whitestone Construction Corp.

Counsel's letter contains pure speculation as to why Boris Grzic was shot. I have been Whitestone's attorney for many years, including the date on which Mr. Grzic was shot and it was never brought to my attention by anyone as to a conclusive reason for the assault. I have been advised by members of the Grzic family the NYC Police Department has drawn no conclusions as the reason for the criminal act after its criminal investigation, which, although dormant, I imagine remains open.

Counsel's rather reprehensible speculation is most unfortunate. Regardless, I have been advised that two bullets remain lodged in Mr. Grzic's head which cannot be removed without great risk to his survival. As a result, Mr. Grzic is disabled. He is not making the day-to-day decisions or running the defendant, Whitestone. While Mr. Grzic may go to the office, it is more to be with his wife and children, rather than running the company.



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To the contrary, Whitestone is run by Steven Grzic, its President and shareholder, Christine Persico, its Vice President and shareholder and Claudia Grzic, Boris Grzic's wife, who is also a Vice President. Rather than Ms. Persico being as plaintiff's counsel claims, a nominal Vice President, she is in the office every day along with her brother, Steven and they are the individuals actually running the company. Moreover, Christine Persico has been the point person at Whitestone which my office has dealt with throughout our involvement in the defense of this action.

Mr. Boris Grzic is not the only person who might be able to assess the actual allegations of the plaintiffs (which he cannot due to his disability). There are many people on the Whitestone management side of the business, who were in place back in 2001 to late 2005 who remain in place. Also, there are many field people still at Whitestone who were at Whitestone during 2001 to 2005, as well, who can assess the factual allegations of the plaintiffs.

In closing, it is rather unfortunate that Mr. Wisniewski decided to write his letter without waiting for my input which I promised to give him by the end of business today given that I was either preparing for or in arbitration during the last three business days. Moreover, I am the partner in charge of this matter and delicate matters of this nature must be handled by me, not by Mr. Cummiskey, the associate working on the matter with me.

In conclusion, plaintiffs' request that the Court compel Boris and Steven Grzic to attend the settlement conference should be denied.

Very truly yours,

GOETZ FITZPATRICK LLP

By: 
Donald J. Carbone

DJC:mi

cc: Robert Wisniewski, Esq.
Christine Persico
Steven Grzic
Tim Cummiskey, Esq.